

## Chapter 34

### VOTING REQUIREMENTS FOR VILLAGE BOARDS

**[HISTORY: Adopted by the Board of Trustees of the Village of Saddle Rock 9-4-2002 by L.L. No. 3-2002. Amendments noted where applicable.]**

#### **§ 34-1. Purpose and applicability.**

The provisions of this chapter are intended to override any contrary law or judicial determination which allows or permits a decision to be made by any municipal board or body without the affirmative action of at least a majority of the whole membership of such board or body. Without limitation, the intention of this chapter is to override the effects of the decision of the New York Court of Appeals in Tall Trees Construction Corp. v. Zoning Board of Appeals of the Town of Huntington. Also without limitation, it is the intention of this chapter to insure that no approval or authorization shall be issued or made by any board or body of the Village by default, or by inaction or failure to act within any particular period of time. This chapter shall apply to all boards of the Village of Saddle Rock and any official village body which has power or authority to make final determinations with respect to matters pending before such body, whether the members of such board or body are appointed or elected.

#### **§ 34-2. Supersession of Village Law; scope.**

- A. In addition to any other provisions of the Village Law of the State of New York which may heretofore or hereafter have been superseded, amended or repealed by any other provision of the Code of the Village of Saddle Rock, or any local law adopted by the Village of Saddle Rock, pursuant to Municipal Home Rule Law § 10(1)(ii), Village Law § 7-712-a(4) is hereby repealed in its application to the Village of Saddle Rock, and a new § 7-712-a(4) is enacted in its place and stead, to read as follows:
  4. Hearing appeals. Unless otherwise provided by local law, the jurisdiction of the board of appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any local law adopted pursuant to this article. The concurring vote of a majority of such board shall be required, as provided in the Village Code of the Village of Saddle Rock, shall be necessary for a determination of any matter considered by such board. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the village.
- B. This chapter shall apply to any determination or issuance of an application, decision, motion, action, approval or other matter (hereinafter referred to as an "action") pending before any board or body authorized to make a final determination with respect to such action.

**§ 34-3. Vote required.**

- A. No board or body of the Village having the power or authority to make a final determination with respect to any matter within the jurisdiction of such board or body shall take any action to grant, grant with conditions, deny, deny with conditions, modify, or otherwise determine any action pending before such board or body, except with the concurring affirmative vote of at least a majority of the whole number of members of such board or body (as if no positions on such board or body were vacant).
  - (1) By way of example, if a board or body consists of five authorized members, regardless of the number of members actually appointed to such board or body, or the number of members of such board or body present at the time of the vote, no action shall be taken by such board or body except upon the affirmative vote of at least three members of such board or body.
- B. Notwithstanding the foregoing, where any provision of law requires an affirmative vote of a greater number or proportion of the members of such board or body, the affirmative vote of such greater number shall be required to take any action as described in this chapter.
- C. Notwithstanding the provisions of this chapter, consistent with the rules or procedures of any board or body of the Village, the Chair of such board or body, or a member of such board or body lawfully exercising the authority of the Chair of such board or body, may:
  - (1) Adjourn, postpone or continue further consideration of any matter until such time as a concurring vote to act upon such matter may be obtained consistent with the provisions of this chapter.
  - (2) Adjourn a meeting upon the conclusion of the business to be conducted at such meeting.
- D. In determining whether an affirmative vote has been cast by any particular member of a board or body, an abstention or absence shall not be counted either as an affirmative vote or a negative vote.
- E. For the purposes of determining whether a board or body has approved any action by a concurring affirmative vote as required by law, the failure to obtain a necessary majority to approve such action shall not be considered an action to approve the converse of the action proposed in the motion. Where the vote of a body or board is less than the required affirmative vote to adopt or approve an action, the action shall be considered to have been defeated, and the body or board shall not be deemed or considered to have taken any action on the substance of the matter pending before the board or body by virtue of such defeat of any action.